



COMMONWEALTH of VIRGINIA

Auditor of Public Accounts

WALTER J. KUCHARSKI
AUDITOR

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12/3/11
December 5, 2011

Earle C. Mobley, Commonwealth's Attorney
City of Portsmouth
Office of the Commonwealth's Attorney
430 Crawford Street, Third Floor
P.O. Box 1417
Portsmouth, VA 23705-1417

Edward G. Hargis, Chief of Police
City of Portsmouth
700 Crawford Street
Portsmouth, VA 23704

Dear Mr. Mobley and Hargis:

In response to your request, dated October 4, 2011, we have reviewed the Portsmouth Department of Social Services' (PDSS) process for procuring the services of Anthony Hargrove. PDSS engaged Mr. Hargrove as a trainer and speaker, because he is a New Orleans Saints' National Football League player and was a child raised in foster care.

Scope of Work

You requested that we review the process for procuring Mr. Hargrove's services, the source of funding paying his fee and expenses, and any other documents related to this matter. In connection with this request, we contacted and discussed this matter with personnel of the Virginia Department of Social Services (VDSS) and the Office of the Comprehensive Services Act (CSA), and reviewed any documentation they had on this matter. We reviewed the City of Portsmouth's procurement guidelines and the Virginia Public Procurement Act. Also, we reviewed all documentation that the City of Portsmouth's Department of Finance and PDSS had and interviewed the appropriate personnel in all departments on this matter.

We did not review any allegations or actions that were not a part of the direct procurement or payment process. We limited our work to a review of the documents mentioned above and the personnel involved in their generation and execution.

Background

In September 2010, the PDSS Director had seen a documentary on the life of Mr. Hargrove including his experiences in foster care and discussed this documentary with his staff and the positive image of foster care that the documentary depicted. The PDSS Director also discussed this documentary with the CSA Program Administrator. The CSA Program

Administrator informed the PDSS Director that she had been Mr. Hargrove's case worker, when he had been in foster care.

The PDSS Director decided to employ Mr. Hargrove as both a speaker and trainer to discuss his experiences and make presentations to foster parents and children, social workers, and local community leaders. Further the PDSS Director used the CSA Program Administrator to assist with this procurement. The CSA Program Administrator began discussions with Mr. Hargrove in May 2011 regarding the training. To determine the potential price associated with this agreement, the CSA Program Administrator did some research to determine the fee that other NFL players receive for similar engagements in order to estimate the potential fee for Mr. Hargrove's services.

All discussions concerning the contract were between the CSA Program Administrator and Mr. Hargrove. However, before finalizing the contract, PDSS officials needed to secure funding for this agreement.

Funding for training was available in the Foster Care Budget allocated to the PDSS by the VDSS, but VDSS required the PDSS to commit the funds in advance to use the money. The Foster Care Budget allocated to PDSS by the VDSS was approximately \$172,000 for training for fiscal year 2012. In addition to the request for Foster Care funds, the PDSS also used funds from its local DSS and CSA administrative budget to pay for \$21,636 of the speaking fees and other expenses. This amount came from the local PDSS budget and the CSA administrative budget for fiscal year 2012.

Procurement Process

The PDSS did not follow the normal procurement process for Mr. Hargrove's training sessions. The departure from the normal procurement process occurred for two reasons. The first reason is training programs on specific topics are normally given by a specific instructor, and, therefore, are normally some form of sole source contract. However, there are normally either historic or stated prices for the training, which are generally publicly available through catalogs or other source materials.

The PDSS did not obtain the approvals for a sole source contract from the City's Purchasing Department. The City's procurement process requires that any department obtaining goods and services in excess of \$5,000 and using a sole source for the procurement must receive the Purchasing Department's approval before proceeding with the procurement. There was no prior procurement approval to sole source the agreement.

Mr. Hargrove had not established a set fee for providing speaking and training services. In order to determine the fee the PDSS Director requested that the CSA Program Administrator work with him to set the speaking fee and other arrangements. To arrive at the speaking and training fee the CSA Program Administrator reviewed the price charged by other speakers on the internet in determining that \$30,000 was an appropriate amount.

It is not an uncommon practice with some speakers and trainers to pay for their accommodations and meals, however, these arrangements normally reduce the speaker and trainer's fees. Additionally, these arrangements normally limit the amount of payment for accommodations and other costs. It does not appear there was a limit established for these costs.

It is a common practice in Portsmouth not to have separate contracts or agreements for goods and services, since the Purchase Order accepted by the vendor has sufficient information to serve in lieu of the contract and agreement. However, a review of the purchase order for these services does not have detail normally in service contracts and it is unclear who has responsibility for payment of some of the incidental costs or if there is a limit on these costs.

Payment Process

After Mr. Hargrove provided the training sessions in July 2011, PDSS authorized the payment of the following expenses from the various funding sources shown. PDSS staff determined the allocation of the expenses based on their knowledge of the amounts approved by VDSS and local funds available for training. After payment, the Finance Department following normal procedures for PDSS activities approved by VDSS submitted \$18,231 for reimbursement by VDSS.

All expenses had appropriate documentation for the charges and appear in accordance with the general terms of the Purchase Order.

Expense	Foster Care Funds Requested from VDSS	Local Funds	Total
Speaking Fees	\$15,000	\$15,000	\$30,000
Event Catering and Food Charges	3,231	1,428	4,659
Hotel Room Charges	-	4,374	4,374
Meals	-	746	746
Speaker's Gift	-	88	88
Total	\$18,231	\$21,636	\$39,867

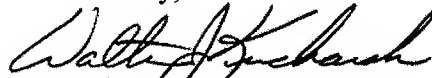
Findings

1. These transactions did not follow the City's normal procurement process for sole source contracts. The Purchasing Department did not review the justification for sole sourcing the contract or determine if the amounts were reasonable.
2. Sufficient formal documentation does not exist to support the amount of the speaker and trainer's fee, or whether the amount of the fees was reasonable. Without some independent source or existing speaking or training schedules, we have no basis for determining the reasonableness of the fee.
3. There is little documentation of the negotiation process followed by PDSS in arriving at the terms of this contract.
4. The budget information requesting funding did not include the total cost of the engagement, but only showed the amount budgeted from each funding source.
5. The Purchase Order for this engagement does not have sufficient detail to properly manage and control the cost of this engagement.

As noted above, we cannot comment on the reasonableness of the fee or whether the training obtained met its objective, since this latter point was not part of this review. Additionally, there may be some allegations outside of these processes that we did not review and

so we cannot comment on them. Our findings noted above are that staff did not follow City approved processes and procedures.

Sincerely,

A handwritten signature in black ink, appearing to read "Walter J. Kucharski". The signature is fluid and cursive, with a prominent initial "W".

Walter J. Kucharski
Auditor of Public Accounts